

Overview

This is the sixth Office of Internal Audit (OIA) Annual Report to the Commissioner. Its purpose is to provide overviews of our responsibilities and Calendar Year 2000 accomplishments. Significant differences from last year's report are noted.

OIA Functions

Our functions are set forth as follows in 8 C.F.R. § 100.2(a)(4):

Headed by the Director of Internal Audit, the office promotes economy, efficiency, and effectiveness within the Service by managing the Service's systems for resolving alleged mismanagement and misconduct by Service employees; reviewing and evaluating the efficiency and effectiveness of Service operations and programs; collecting and analyzing data to identify patterns of deficiencies or other weaknesses warranting investigative or audit follow-up; making recommendations on disciplinary policies and procedures of the Service; overseeing Service systems to eliminate fraud, waste, and abuse in the workplace; and acting as the Service's liaison with outside audit/inspection agencies. These duties are executed in coordination with other components of the Service and other Department of Justice components.

OIA Organ- ization and Resources

Our personnel resources grew from 79 in 1999 to 81 in 2000. They were distributed among our major functions as follows:

Function	Staff
Director, Deputy Director, and Admin. Support	3
Internal Review Branch:	
Assistant Director and Staff	4
INSpect	31
Liaison, Analysis, and Follow-up	8
Special Studies	7
Internal Investigations Branch:	
Assistant Director and Administrative Support	2
Investigations	22
Case Management and Analysis	4
Total	81

Three Special Agents were transferred to us from the Department of Justice Office of the Inspector General (OIG) in 2000. That allowed us to have a permanent presence in the field by establishing offices in Chicago, Illinois, and San Jose, California. At year's end, we were in the process of establishing a third field office in Laguna Niguel, California, that will be staffed by two of our Special Agents. These field offices make us better able to support Service field managers and respond to time-sensitive matters.

INSpect

We review Service programs and operations through INSpect, the INS Program for Excellence and Comprehensive Tracking. An INSpect review comprehensively examines a field office, focusing on areas that

are vulnerable to fraud, waste, abuse, and mismanagement; require compliance with rules, regulations, and procedures; or are of high priority or interest. During a two-week INSpect review, the diverse functions of an office are assessed using standard review guides developed through active participation of field and Headquarters managers. The reviewers are drawn from a corps of INSpect-trained subject matter experts from across the INS. We manage all aspects of the process, from planning and scheduling, through on-site supervision and coordination, to preparation and issuance of draft and final reports of findings and recommendations. Before leaving a review site, the INSpect team provides managers with written findings and preliminary recommendations so they can start corrective actions immediately.

*2000
INSpect
Reviews*

We reviewed 21 INS offices in 2000: 10 District Offices, including one foreign district, 4 Border Patrol Sectors, 5 Asylum Offices, 1 Administrative Center, and 1 Service Center. The 21 offices account for 15 percent of the Service's field personnel. This year we continued the second cycle of INSpect reviews; three Districts, two Sectors, and one Service Center were reviewed previously.



In the reviews, we led over 450 INSpect Corps members: 302 from INS field offices and 165 from Headquarters. The INS field personnel were evenly distributed among the three regions.

In 2000, we issued 25 final INSpect reports and 23 draft reports. The final reports presented a total of 1,542 recommendations for corrective actions and improvements. Additionally, we identified 33 Best Practices — local successes with Service-wide applicability.

*INSpect
Training*

The INSpect Corps comprises over 1,200 members. In 2000, we formally trained 229 INSpect Corps members in INSpect policies and procedures.

*INSpect
Guides*

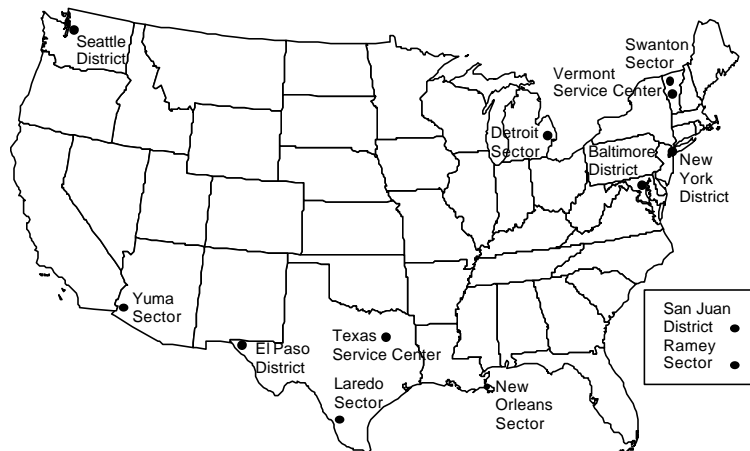
The INSpect guides, which are developed with the assistance of INS program subject matter experts, ensure consistency and relevance. The guides cite applicable requirements and guidance and detail the amounts and types of evidence necessary to support findings. The guides are "living documents." We review the guides in coordination with program offices and in light of team member feedback, and update them as necessary.

With the assistance of Headquarters and field personnel, we revised eight INSpect guides (Affirmative Asylum, Asylum Expedited Removal/Credible Fear, Border Patrol, Detention, Deportation, Human Resources and Development, Inspections, and Records). We also developed 12 additional guides specific to reviews of foreign districts (Adjudication, Equal Employment Opportunity, Human Resources and Development, Finance, Inspections, Intelligence, Investigations, Parole, Property, Refugees, Records, and Security).

*INSpect
Follow-up*

Accomplishment reporting is an important part of an effective follow-up system. It brings together INSpect findings and corrective actions, and promotes staff commitment by associating individuals' work with organizational accomplishments.

The follow-up process begins with the issuance of a final INSpect report. Based on management responses, the follow-up team determines how best to measure the effectiveness of corrective actions. A follow-up team visits the site to determine whether the expected benefits were achieved. Follow-up activities include document, file, and system reviews, staff interviews, and observation of normal office activities. The follow-up team does not look for new issues. In 2000, the team conducted 13 follow-up reviews that addressed 845 recommendations.



A recommendation is closed upon issuance of a final INSpect follow-up report when one of the following conditions is met:

- the recommendation was effectively implemented;

- an alternative action achieved the intended results;
- circumstances have so changed that the recommendation is no longer valid; or
- the recommendation was not implemented despite the use of all feasible strategies. In that case, the follow-up team determines whether the objectives are significant enough to be pursued later.

In many cases, offices implement simple processes that significantly improve daily operations or facilitate INSpect recommendations.

We issued 11 follow-up reports, closing 828 of the 851 recommendations addressed in those reports. We continue to follow up on open recommendations until corrective actions have been taken. We closed an additional 84 recommendations based on actions taken after final follow-up reports were issued.

<i>INSpect and Other OIA Recommendations</i>	<i>2000</i>	<i>1999</i>
Open at the beginning of the year	1,610	1,278
Added during the year	1,542	984
Closed during the year	912	662
Pending at the end of the year	2,240	1,610

Since 1997, we have issued 32 follow-up reports, closing 1,977 recommendations. Approximately 4 percent of review recommendations remain open, most due to insufficient funding for improvements to facilities, such as new construction, additional space, and security measures, and insufficient personnel resources, particularly Detention Enforcement Officer positions. In our INSpect and follow-up reports, we document the bases for any recommendations for additional positions at INS Districts and Sectors. Very few recommendations remain open because of management inattention. Most such recommendations concern administrative matters, such as documentation of overtime, maintenance of logs of various types, and provision of training.

Special Studies and Projects

We also conduct other reviews of Service programs and operations. These focus on specific problems or program areas, unlike INSpect reviews that address at one time the various functions within individual INS offices. In addition, we have taken the lead on several Service-wide projects.

Naturalization Quality Assurance

In an effort to ensure Service-wide consistency in processing applications and granting benefits, we helped the INS institutionalize a quality assurance (QA) process within the naturalization program. To support this effort, our staff has tracked naturalization QA data from INS field offices since July 1997. During 2000, we established a new baseline from QA data received over the 12 months ending December 31, 1999. That data now serves as the basis for measuring progress and assessing INS' compliance with its Naturalization Quality Standards. The database

allows for the measure of performance at both Regional and District levels. We used this data to prepare a detailed summary report to identify trends, strengths, and weaknesses in the naturalization process.

Analysis of the QA reports, maintenance of the corresponding database, and the monthly QA reports to INS management became the responsibility of the Immigration Services Division (ISD) in February 2000. We ran a parallel system throughout the year. Although we expect to discontinue the parallel system after the December 2000 reporting period, we plan to monitor INS' Naturalization QA efforts and the ISD monthly QA naturalization reports.

*Review of the
H-1B Program*

As a result of congressional and public concerns, the INS initiated an extensive, time-sensitive review of the processing of H-1B non-immigrant visa petitions. The firm KPMG Consulting was contracted to ascertain the accuracy of INS' count of H-1B workers who were recorded against a statutory cap. Additionally, KPMG was to determine the ability of the Service's procedures to accurately record fees into appropriated accounts and properly transfer fees to the Department of Treasury.

Senior agency management determined that the OIA's independence made it uniquely qualified to coordinate this high profile review. As a result, we were assigned to act as the Contracting Officer's Technical Representative to oversee and coordinate all contract-related activity. This seven-month effort involved a variety of liaison activities. To address congressional concerns, our staff became involved in specific aspects of the contractor's review. The review yielded four detailed and widely distributed reports, each of which required briefings for senior INS officials and congressional staff. The reports culminated in changes to the statutory requirements of the H-1B program.

*Distributing
Policies and
Procedures;
Ensuring
Compliance*

The Attorney General expressed concern that the INS did not ensure field implementation of its policies and procedures. The Commissioner directed us to review the Service's processes for issuing and distributing policies and procedures and following up to ensure Servicewide compliance. She selected four high-profile program initiatives for OIA review:

- Expedited Removal Process;
- Naturalization Quality Procedures ;
- Medical Disability Waivers for Naturalization; and
- Soft Body Armor

Our review objectives included analysis of the effectiveness of each program's distribution of policies and procedures to the field. Based on the analysis, the Commissioner directed us to develop a standard "minimum requirements" template for policy and procedures distribution and related follow-up.

We concluded that the INS did not have a sound infrastructure for providing guidance to the field. We identified weaknesses in the process and their causes, and recommended actions to correct deficiencies.

*IDENT/
ENFORCE
ITDP*

In response to a highly-publicized OIG report concerning the management controls in INS' Automated Biometric Identification System (IDENT) system, the Commissioner established a high level task force to establish Service-wide standard operating procedures (SOPs) for IDENT and the Enforcement Case Tracking System (ENFORCE).¹ This task force also was to determine the levels of training necessary to ensure timely and effective Service-wide implementation.

We served as a technical resource to the task force to ensure that appropriate internal management controls were built into the resulting Asylum, Border Patrol, Detention and Deportation, Inspections, and Investigations SOPs. Our staff reviewed and commented on draft SOPs, emphasizing the importance of integrating quality control processes into the procedures.

*QA Supplement
to Port-of-Entry
Fee Collection
SOPs*

Following an OIG report of serious deficiencies in the INS' fee collection process, the Assistant Commissioner for Finance and the Office of Field Operations jointly promulgated revised SOPs. We developed a quality assurance supplement. We also developed a review plan to test the adequacy of the QA procedures and to evaluate implementation at ports-of-entry.

*Financial
Reviews of
Anti-smuggling
Operations*

In 1998, the Attorney General authorized the INS Office of Field Operations to conduct proprietary anti-smuggling operations. In November 1999, the Office of Field Operations asked us to conduct a financial closeout review of the first operation. Our staff conducted this review during 2000, issuing the report in August. We reported that, although expenditures had been documented properly, over \$6,000 could not be accounted for because project funds had been intermixed with general District funds. We recommended that future operations' funds be segregated through establishment of separate project codes. In November 2000, the Office of Field Operations asked us to review three more operations. We began one of those reviews in 2000, and will conduct the others in 2001.

*Data Integrity
Reviews*

The Office of Policy and Planning (OPP) asked us for limited scope reviews to assess the integrity of data supporting INS performance indicators in the INS Fiscal Year 2000 Annual Accountability Report. The review allowed the OPP and others to verify the accuracy of data and INS activity reported to the Department of Justice. In 2000, we focused on the

1. The Rafael Resendez-Ramirez Case: A Review of the INS' Actions and the Operation of Its IDENT Automated Fingerprint Identification System, March 20, 2000. This significant criminal case concerned a Mexican citizen who committed murders after illegal entries into the United States. Border Patrol Agents, unaware of outstanding warrants against him because the information was not in IDENT, permitted him to return to Mexico voluntarily each time.

review of Alien Removal statistics. Similar reviews will be done in the future.

Non-INS Reviews

We provide liaison between the INS and non-INS review organizations, ensuring that Service management is aware of ongoing reviews and appropriate INS personnel participate. To keep INS managers better informed of review activities, we publish a schedule of site visits related to ongoing and pending reviews. We distribute the schedule each week to the INS executive staff and regional directors, and post it on our e-mail bulletin board and the INS Intranet.

Our liaison staff manages a workload of General Accounting Office (GAO) reviews and OIG audits and inspections.

<i>Organization</i>	<i>Reviews Open as of 1/1/00²</i>	<i>New Reviews in 2000</i>	<i>Reports Received in 2000</i>
GAO Reviews	17	26	22
OIG Inspections	11	4	7
OIG Audits	20	4	8
Total	48	34	37
1999 Total	36	30	30

Major GAO Reviews

The GAO issued its fourth congressionally mandated report on the strategy to deter illegal entry into the United States. Other major reports focused on INS fee deposit practices, management of the development of its enterprise architecture, and H-1B program administration.

- Alien Smuggling. This review, the fourth of six congressionally mandated reports on the implementation of the Attorney General's strategy to deter and disrupt the entry of illegal aliens into the United States, focused on anti-smuggling activities. The GAO concluded that the INS needed to improve its investigations and intelligence programs to enhance its ability to disrupt and deter increasingly sophisticated and organized alien smugglers and dismantle their organizations.
- Deposits of Application Fees. The GAO found that, because of incomplete data, it was unable to fully determine the extent to which the INS complied with Department of Treasury regulations on timely deposit of fees. However, in the year that the GAO chose for review, the INS Service Centers did not generally make timely fee deposits. The GAO also found that the INS allowed its application processing service contractor more time to deposit fees than is allowed by Treasury regulations.

2. A review is considered "open" until the review organization notifies us that all recommendations in the report are closed.

- Information Technology. The GAO concluded that while the INS has taken some limited steps to develop an enterprise architecture, considerable work is needed before that architecture is complete and useful. Additionally, fundamental controls are needed for management of the architecture's development.
- H-1B Foreign Workers. Despite the H-1B program's success in helping employers bring in highly skilled foreign workers, the GAO found that weaknesses in INS' administration of the program leave the H-1B process vulnerable to abuse.

*Major OIG
Reviews*

Among the reports issued by the OIG in 2000, several focused on automated systems within the Service. Other noteworthy reports addressed the INS' collection of fees at land border ports-of-entry and relations with the airline industry. Two reports of investigation identified weaknesses in INS systems.

- INS' Passenger Accelerated Service System (INSPASS). The OIG found system problems create security risks and prevent INSPASS from reliably performing automated inspections.
- Secure Electronic Network for Traveler's Rapid Inspection (SENTRI). The OIG identified several areas where improvement is necessary to ensure SENTRI's continued viability. Overall, however, the OIG found that SENTRI has accomplished its mission of expediting the primary inspection process without compromising border integrity.
- Select Computer Security Controls of INS' Automated I-94 System. The OIG addressed several inadequate computer security controls that make the I-94 System and its data vulnerable to unauthorized use, loss, or modification.
- Follow-up Inspection of the INS Document Fraud Records Corrections. The OIG identified several areas where INS needs to make improvements in order to ensure the integrity of its records flagging system.
- INS and Airline Industry Relations. Though the OIG noted airline industry personnel confirmed that INS was doing an excellent job with limited resources, it recommended improvements in the areas of airline training, information sharing, and general communication.
- The Rafael Resendez-Ramirez Case: A Review of the INS' Actions and the Operation of Its IDENT Automated Fingerprint Identification System. The OIG found systemic problems in INS' design and implementation of IDENT, and recommended improving the operation of IDENT, improving the training of INS employees in IDENT and its uses, and integrating IDENT with FBI and INS databases. We are following up on the 25 recommendations in the report.

- INS' Citizenship USA Initiative. The OIG found that INS' emphasis on processing cases during CUSA, despite the known risks that accelerated production would pose to its proper evaluation of applications for citizenship, compromised the integrity of naturalization adjudications. We are monitoring the 25 recommendations in the report.

*Review
Recom-
mendations*

By prompting INS organizations to take the corrective actions for which they are responsible, we facilitate the implementation of actions recommended in external organizations' reviews.

<i>External Organizations' Recommendations</i>	<i>2000</i>	<i>1999</i>
Open at the beginning of the year	187	154
Added during the year	111	85
Closed during the year	57	52
Pending at the end of the year	210	187

In September, we began coordinating INS portions of the DOJ Corrective Action Plan; the INS provides Corrective Action Plans on all open GAO and OIG report recommendations.

Analysis

We analyze information in our reports and in those of other review organizations, including the GAO and the OIG, to identify systemic problems, trends, and best practices.

*INSpect
Alerts*

Based on analysis of the findings and recommendations made in INSpect reports, we issue *INSpect Alert* reports to INS management. *INSpect Alerts* let managers know about problems repeatedly found in INSpect reviews so they can identify and correct those problems in their own operations. During 2000, we issued four *INSpect Alert* updates covering border patrol, investigations, legal proceedings, and procurement.

*Analysis of
INSpect
Recom-
mendations*

We also continued to analyze the recommendations made in INSpect reviews. We found, based on our follow-up reviews, that management completed corrective actions on:

- 96 percent of recommendations for field office compliance with existing guidelines;
- 93 percent of recommendations for development of local standard operating procedures;
- 92 percent of recommendations for staff training;
- 97 percent of recommendations that required expenditure of resources to correct problems.

We will continue our follow-up to ensure management accountability and verify the consistent implementation of corrective actions.

**Best
Practices**

We periodically issue "*News You Can Use*" bulletins providing information from OIA reviews and investigations that can improve procedures and processes throughout the Service and help our customers perform their functions more efficiently. Because the issues in these publications have Service-wide application, we direct them to INS employees at all levels.

A March 2000 issue of "*News You Can Use*" highlighted 21 noteworthy ideas and local initiatives by which Districts, Sectors, and Service Centers enhance operations and implement INSpect recommendations. These ideas and initiatives ranged from developing manuals, procedures, and tracking systems, to providing refresher training, to reviewing standard operating procedures in regular staff meetings.

A September 2000 issue of "*News You Can Use*" highlighted computer security vulnerabilities identified in INSpect reviews and an OIG report on computer controls of the automated I-94 system. The vulnerabilities included password controls, system auditing management, and contingency planning.

**Summaries
of Findings**

During 2000, several Headquarters components asked us for compilations of findings, recommendations, and follow-up actions within their program areas. We provided this information to the Offices of Human Resources and Development, Field Operations, General Counsel, Investigations, and Procurement. We also provided the Office of Intelligence and Training Division specific information on INSpect findings.

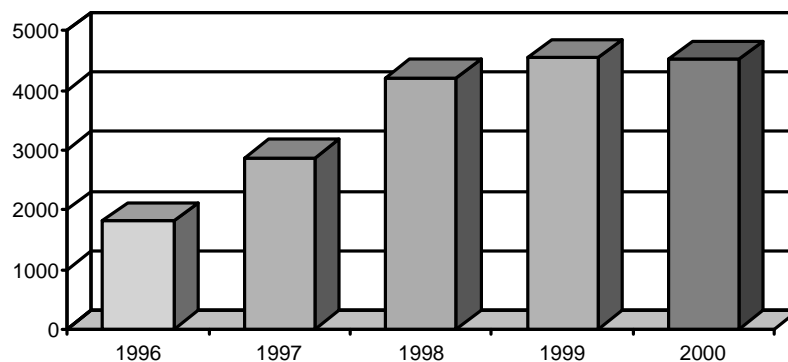
Investigations

We manage the processes by which allegations of misconduct on the part of Service employees are reported, resolved, and acted upon. We also conduct internal investigations and assign and oversee the conduct of inquiries by field managers.

**Cases
Opened
In 2000**

We receive employee misconduct allegations from a variety of sources. Most cases we open are based on referrals by INS field managers in accordance with the requirements of Operations Instruction (OI) 287.10, "Reporting and Resolving Allegations of Employee Misconduct." The remainder are based on referrals by the OIG; correspondence to Department of Justice and INS officials from complainants and their representatives, advocacy groups, and Members of Congress; and the complaint forms mentioned elsewhere in this report.

We opened 4,527 cases in 2000, 26 (1 percent) fewer than in 1999. Historically, however, the number of cases we opened has increased steadily. The increases were due to such factors as growth in Service employment, our tightening of reporting requirements for allegations of misconduct pursuant to the *Giglio* Policy (discussed further below), education of employees in the complaint process, and increased community outreach efforts by the Service.



The leveling off of cases in 2000 is attributable to our decision to handle outside the misconduct allegation process all customer service complaints related to immigration benefits (e.g., processing time, loss of files, and failure to record changes of address). If we had received the usual number of such complaints in 2000 and opened them as misconduct cases as we had in prior years, we would have opened more cases in 2000 than in 1999.

We decided to handle customer service complaints outside the misconduct allegation process because the Internet posting of the OIA's mailing address created an enormous influx of such complaints. In 2000, we received over 2,400 customer service complaints. We entered into a series of discussions with the Immigration Services Division as to how best to refer these matters. NOTE: The 2,400 customer service complaints are not included in the misconduct case statistics presented later in this report.

*Allegations
In Cases
Opened
In 2000*

The 4,527 cases we opened in 2000 represented 4,979 separate allegations as follows:

<i>Allegation Category³</i>	<i>2000</i>	<i>1999</i>
Workplace management issues	24%	24%
Professionalism/personal conduct	21%	22%
Theft/misuse/abuse of government property	12%	12%
Abuse	10%	10%

3. "Workplace management issues" include complaints of threatening, harassing, intimidating, or retaliating against employees, complaints of discriminatory treatment, and allegations related to hiring practices, supervisor/subordinate communications and relationships, and failure to properly perform duties (e.g., refusal to accept a complaint from a member of the public). "Professionalism/personal conduct" includes complaints related to individual employee behavior in the workplace, including unbecoming conduct, rude or discourteous treatment of the public, insubordination, use of intoxicants, fighting, verbal abuse of co-workers, cheating, and gambling. "Abuse" includes allegations of civil rights violations, such as physical or sexual abuse of detainees, excessive or unnecessary use of force, and unlawful search and seizure. "Corruption re: official duties" includes allegations of criminal behavior such as bribery, sale of documents, alien or drug smuggling, aiding or abetting escape, or harboring or employing illegal aliens.

<i>Allegation Category³</i>	<i>2000</i>	<i>1999</i>
Corruption re: official duties	8%	12%
Performance issues	8%	8%
Off-duty misconduct	7%	4%
Detainee issues	4%	4%
Firearms related issues	3%	3%
Investigative violations	2%	0%
Other felonies, e.g., homicide	1%	1%
Total	100%	100%

*Allegations
Related To
Public
Contacts*

Ten percent of the cases we opened in 2000 contained allegations of abuse or civil rights violations. While the vast majority of these cases do not result in criminal prosecution of employees and many do not identify particular Service employees, they are among the most serious allegations reported.

Also of concern in respect to public contacts are allegations of rude or discourteous conduct towards the public. We received 289 such allegations in 1999, approximately 6 percent of all allegations received. In 2000, this number increased to 623, or 14 percent of the total allegations received. We attribute this increase to the Internet posting of our mailing address. Unlike customer service complaints, which we now process outside the misconduct allegation process, we continue to handle as misconduct matters allegations of rude or discourteous conduct towards the public.

*Allegations
Related To
Workplace
Issues*

Approximately 44 percent of the complaints we received over the past four years have represented employees complaining about the action or inaction of other employees. These complaints include hiring, selection and promotion issues; discrimination; sexual and other harassment; threats; intimidation; retaliation; assault; and other behaviors solely linked to employees' treatment of one another while at work. In reality, the majority of complaints do not come from outside the agency; they originate in the workplace.

*Action by
Non-INS
Organizations*

We refer to the Office of the Assistant Inspector General for Investigations (OAIG-I) those more serious matters which agreements with that office call for us to refer. The OAIG-I returns the majority of such cases to us either for investigation or information only.

Some of the cases we receive must be or already are being investigated by organizations outside the INS such as the OAIG-I and the Civil Rights Division of the Department of Justice (CRT), generally for the purpose of supporting possible criminal prosecution. We also monitor investigations by the Department's Office of Professional Responsibility (OPR), whose jurisdiction involves Department attorneys and their representation of the agency. We ensure those cases are appropriately referred at the outset, and monitor their progress. The great majority ultimately are referred to us following declination of criminal prosecution or case closure.

We review the investigative work done on those cases and determine whether additional investigation is warranted. Often, additional work is needed because the criminal and administrative processes differ, particularly in respect to offenses on which action can be based and the degree of proof required in the disciplinary/adverse action context. Quite often, statements obtained in a criminal investigation that are not in the form of sworn testimony are of limited value in disciplinary and adverse action cases. Also, many criminal investigations do not include an interview of the subject prior to a declination for prosecution. Disciplinary action cannot be initiated without a subject interview. Also, unlike in criminal cases, it is important that an administrative investigation provide information as to whether subjects were "on notice" about their behavior, and whether there were aggravating or mitigating circumstances. In such cases, we work with the investigating agency and request that certain aspects of the case be supplemented or agree with the agency that we will supplement the case.

*OIA Action on
Receipt of
Allegations*

We have investigative responsibility for almost all misconduct complaints regarding INS employees. Of the 4,527 complaints of misconduct we received in 2000, 4,288 (95 percent) were resolved by us or by INS field managers under our oversight.

We decide whether to investigate cases ourselves or to refer them to the appropriate INS managers, either for their conduct of management inquiries or for information and action as they deem appropriate. Both investigations and management inquiries represent reviews of allegations of misconduct. Investigations are more formal and usually are conducted by trained investigators. Management inquiries are less formal and usually are conducted by management officials or their designees. In cases we refer for management inquiry, we set suspense dates for completion of action and require reports of findings and records of corrective action taken based on substantiated allegations.

The dispositions of the 4,527 cases we opened in 2000 were as follows:

<i>Disposition of Cases Opened by the OIA</i>	<i>Cases</i>	
	<i>2000</i>	<i>1999</i>
Action by the OIA:		
Full investigation by OIA	512	412
Management inquiry by OIA	13	0
Management inquiry by field management with OIA oversight	1,910	1,854
Referral to field management for information	1,435	1,577
File/no action	233	341
Other (e.g., determination of disposition pending)	185	73
Subtotal	4,288	4,257

<i>Disposition of Cases Opened by the OIA</i>	<i>Cases</i>	
	<i>2000</i>	<i>1999</i>
Action by non-INS organizations		
Full investigation by the OAIG-I	229	279
Investigation by the CRT/FBI	8	15
Investigation by the OPR	2	0
Subtotal	239	294
Total	4,527	4,551

Our limited investigative resources make it necessary for us to refer a large percentage of our workload to field managers for management inquiry. We try not to refer to the field more serious or complex allegations or cases involving employees at or above GS-14. However, as the number of these cases and the number of all cases have increased, we have had to do so more often.

Although the number of allegations we referred to field managers for management inquiry increased again this year, we succeeded in reducing the number of serious allegations so referred.

<i>Management Inquiry Referrals⁴</i>	<i>2000</i>	<i>1999</i>
All Allegations	1,910	1,854
Class 1 Allegations Included	157	254
Class 2 Allegations Included	329	363

*OIA
Investi-
gations*

Our Special Agents made 293 trips to field locations in 2000 in support of our investigative mission. They completed 524 investigations, 8 percent more than in 1999, while handling an increase in the number of cases with high-level attention, or which necessitated lengthy, complex investigations. One or more allegations were found substantiated in 211 (40 percent) of the 524 cases.

<i>OIA Investigations</i>	<i>2000</i>	<i>1999</i>
Cases opened	512	412
Cases completed	524	486
Cases pending at year end	69	37

As most of the following examples of cases our Special Agents investigated in 2000 illustrate, we focus on resolving both individual misconduct issues and systemic problems in such areas as training and policy.

- We investigated allegations involving the management and award of task orders to contractors supporting a high-profile technical Service-wide application. We found that individual acts and lack of oversight contributed to the award of \$1.2 million in work to contractors to which

4. Class 1 and Class 2 are the most serious of four categories of allegations under OI 287.10.

an employee had personal ties. We also found that a former government employee working for one of the contractors had approved over \$500,000 in contract expenditures. That person was able to approve the work as a government employee even after her federal employment had been terminated. The Office of Information Resources Management is closely examining the findings in order to prevent recurrence.

- We investigated allegations in the press that the Los Angeles Police Department's (LAPD) Rampart/CRASH unit used the INS to deport potential witnesses to police brutality. We conducted more than 50 interviews and reviewed hundreds of alien files. We found no evidence supporting the allegations that the INS acted in concert with the LAPD to carry out or cover up illegal acts or that the LAPD was allowed to enforce the immigration laws. Nonetheless, we reported several systemic findings related to investigative record keeping and management of Organized Crime Drug Enforcement Task Force personnel, caseloads, and resources. We presented our findings to the Executive Associate Commissioner (EAC) for Field Operations and the District Director, Los Angeles.
- We investigated allegations that three foreign nationals had been abused and denied due process in highly publicized expedited removal cases at airports in Portland, Oregon, Detroit, and New York. All of the cases had Attorney General or United States and foreign country ambassador interest. In none of the cases did the evidence show that individual employees deliberately engaged in misconduct or acted outside the scope of their authority. However, we pointed out issues related to record keeping and the documentation of consular contacts.
- We investigated highly publicized allegations of mistreatment in a worksite enforcement operation at an Air Force Base in Texas. Although our investigation did not corroborate the allegations, we presented several systemic findings to the EAC for Field Operations. We also participated in a community briefing hosted by the Department of Justice Office of Special Counsel for Immigration Related Unfair Practices and provided information on our findings to members of the public and representatives of advocacy groups.
- We investigated allegations that INS personnel injured and threatened media personnel during their removal of Elian Gonzalez from Lazaro Gonzalez's Miami, Florida, home in April 2000. We reviewed medical records and interviewed media personnel and INS employees who entered the residence. The investigation did not support the allegations. The Attorney General was apprised of our findings.
- We investigated an allegation that a senior District official provided false testimony at a subordinate employee's disciplinary action hearing. The investigation, which entailed numerous interviews and com-

plex record analysis, resulted in the proposed removal of the senior official and one other employee.

- We noted a significant increase in the number of incoming matters alleging improper use of government computers and electronic mail, particularly the downloading or forwarding of pornographic or other inappropriate material. We issued a notice reminding all field managers of the restrictions on use of government equipment.
- We investigated Border Patrol Agents' alleged incursion into Mexico from California. This controversial case received a great deal of press in Mexico, and the Mexican Ambassador became personally involved. Our quick response defused the diplomatic situation, in which the Mexican government initially had demanded prosecution of Service employees. We forwarded to the Chief Patrol Agent for consideration of corrective action our findings regarding the entry into Mexico and employee conduct.
- During our investigation of a series of allegations involving an INS unit, the Office of Special Counsel (OSC) ordered the stay of disciplinary actions against unit employees pending its investigation of allegations of reprisal against employees for their disclosure of potential misconduct and mismanagement. The OSC accepted our investigation and did not pursue the matter formally.

Our investigation, which involved more than 70 interviews and review of thousands of pages of records, disclosed harassment and disparate treatment of unit employees, misuse of government employee time and property, and other ethical violations. Our other findings, both individual and systemic, were sent to the EAC for Management for consideration of corrective action. The Attorney General forwarded the results of our investigation to the OSC.

- We investigated allegations that an INS supervisor repeatedly subjected a subordinate to inappropriate sexual comments, touching, and questioning. Our investigation, which included consensual polygraph examinations of both subject and victim, corroborated the allegations, and the subject was demoted.

*Cases
Closed
In 2000*

When we receive reports of investigation or inquiry completed by INS managers or non-INS agencies, we ensure that the issues have been properly identified, that the necessary facts have been obtained, and that systemic problems are addressed. In 2000, we reviewed over 2,500 reports of investigation and inquiry. We give our own investigations this same level of oversight.

For those cases in which investigation or inquiry results appear to support findings of misconduct, we ensure those results will enable the responsible managers to make proper individual corrective action determinations. Before closing any such case, we ensure that corrective action taken

against employees based on substantiated allegations is reasonable, appropriate, and timely.

We notify non-INS complainants whose identities are known that we have received their complaints. Upon completion of any inquiries or investigations, we also notify them of whether or not their allegations were substantiated. During 2000, we sent 837 notification letters of both types. Also, we continued our practice of advising those employees who are named as subjects in complaints when allegations concerning them are not substantiated and the cases are closed. We issued 751 such letters in 2000.

We closed 4,828 cases in 2000 on the following bases:

<i>Basis for Closure</i>	<i>2000</i>	<i>1999</i>
Investigation or inquiry completed:		
One or more allegations substantiated and corrective action properly considered	1,698	685
No allegations substantiated	1,404	1,103
Investigation or inquiry not required (e.g., referred to management for information only, or filed/no action)	1,726	1,670
Total	4,828	3,458

The allegation substantiation rate increased from approximately 20 percent in 1999 to approximately 35 percent in 2000. We believe the increase was due primarily to the improved quality of the management inquiries by field managers who have received our management inquiry training, and more complete reporting of actions initiated in the field based on substantiated allegations of lower level misconduct.⁵ Other factors, such as increased Labor Management and Employee Relations support at INS Administrative Centers, Districts, and Border Patrol Sectors, may have played a role.

Of the 4,828 cases we closed in 2000, 504 involved allegations of abuse of aliens/detainees, including physical abuse, illegal search or seizure, unlawful or unnecessary detention, and sexual misconduct. Such allegations are immediately referred to the CRT. Of all civil rights complaints referred to the CRT by DOJ components, fewer than 10 percent result in criminal investigation and only 1 percent are prosecuted. Following declination of prosecution, we investigate or oversee the administrative investigation of the remaining 90 percent.

5. Under OI 287.10, INS managers and supervisors are expected to act independently on performance problems and minor alleged misconduct. We categorize such matters as Class 4 allegations. Examples are tardiness, unexcused or unauthorized absence, or misuse or unauthorized use of sick leave, and conducting personal business on Government time, or loafing, wasting time, sleeping on the job, or inattention to duties. They are, however, required to report to us all disciplinary and adverse actions taken.

*Individual
Corrective
Actions*

Management at least considered individual corrective actions in regard to 1,987 employees based on the 1,698 cases we closed in which allegations were substantiated.⁶ Those corrective action determinations were distributed as follows:

<i>Individual Corrective Action</i>	<i>2000</i>	<i>1999</i>
Criminal conviction and sentence ⁷	30	4
Termination of employment	121	63
Resignation prior to corrective action	97	17
Retirement prior to corrective action	13	3
Demotion	10	6
Suspension	518	224
Reassignment	4	2
Reprimand	624 ⁸	417
Admonishment	122	59
Counseling	124	59
Restitution	0	1
Alternative dispute resolution	18	22
Other ⁹	101	27
None ¹⁰	205	92
Total	1,987	996

Included in the figures above are 64 Service employees in whose regard corrective actions were at least considered based on substantiated civil rights allegations. Those corrective action determinations are shown in the following chart:

6. Some cases comprise multiple substantiated allegations. Some allegations involve multiple subjects.

7. This figure includes not only federal prosecutions, but state and local prosecutions for off duty offenses, such as driving while intoxicated, domestic violence, and failure to pay child support. Over the past three years, an average of 23 employees were federally prosecuted for corruption related to their official duties.

8. The majority of reprimands were based on incidents in which employees were found to have been careless or negligent in the use of government property, including motor vehicles. Such matters are reported to the OIA after action is taken.

9. "Other" includes such actions as not extending an employee's temporary appointment, referral to the Employee Assistance Program, and resolution through background investigation and clearance channels.

10. "None" includes cases in which, while investigation or inquiry supported a finding of misconduct in our view, individual corrective action could not be taken. Examples of such cases are those in which: (1) labor and employee relations or legal staff advised managers that disciplinary action should not be pursued because such action would not be sustained, either because the evidence was insufficient or too much time had elapsed since the incident at issue; (2) the managers responsible made reasonable determinations, contrary to those of the investigative agencies, that the evidence did not support corrective action; and (3) no INS employee subject could be identified.

<i>Individual Corrective Action</i>	<i>2000</i>	<i>1999</i>
Criminal conviction and sentence	0	0
Termination of employment	7	6
Resignation prior to corrective action	6	0
Demotion	0	1
Suspension	15	1
Reprimand	8	2
Admonishment/Counseling	14	3
None	14	8
Total	64	21

Government-Issued Credit Cards

In 2000, we continued to investigate misuse of government-issued credit cards and failure to pay bills on such accounts. We opened 52 such investigations.

In addition, we worked with the BankOne Master Card program coordinator on issues related to the misuse of employees' government-issued credit cards. This included continuous liaison with BankOne concerning possible instances of misuse or failure to pay.

Misconduct Prevention

At least as important as our resolution of individual cases of alleged employee misconduct are our extensive efforts to prevent misconduct by eliminating its causes. Our prevention efforts focus not only on employees, but also on management practices and systems.

Integrity and Ethical Decision-Making Seminars

The Director, OIA, continued to present the "Integrity and Ethical Decision-Making" professional development seminar in Districts and Sectors nationwide. Two one-day sessions were held for employees of the Miami, Harlingen, Phoenix, Boston, Chicago, Baltimore, San Antonio, and Honolulu Districts, and the Miami, McAllen, Tucson, Del Rio, and Laredo Sectors. Sessions also were held at the Texas Service Center.

This seminar focuses on values important to both law enforcement personnel and benefit providers. In the seminar's interactive format, participants discuss personal and organizational values, factors that influence decision-making, and the negative consequences of decisions. The seminar also provides tools for weighing alternatives and judging consequences. The course content and method of instruction have been effective and widely accepted by INS employees.

Because last year's training of local facilitators was so successful, another three-day training seminar in facilitation techniques was held this year. The attendees, all of whom had attended an Integrity and Ethical Decision-Making seminar, were hand picked by their District Directors or Chief Patrol Agents. The Cleveland, Los Angeles, Miami, Harlingen, Phoenix, El Paso, and San Diego Districts, and the Miami, McAllen, Tucson, and El Centro Sectors sent personnel to this course.

The local facilitators have begun small group training sessions aimed at opening dialogue on issues of local interest that have integrity and ethics components. The local facilitators have greatly expanded the number of employees exposed to these ideas, and have provided opportunities and forums for open, frank discussions on these topics.

The El Paso District and Sector facilitators, with the full support of their upper level management and the OIA, have conducted their own facilitator training sessions. There are now over twenty people in each of these organizations capable of guiding discussions on integrity and ethical decision-making. It is the goal of these organizations to have every employee attend a training session. Following El Paso's lead, several other Districts and Sectors have begun local training seminars. The OIA has provided mentoring and resource assistance to ongoing efforts in Miami, Tucson, McAllen, and San Diego.

*Management
Inquiry
Training*

We continued our Management Inquiry Training program in 2000 and, to date, have trained over 3,500 Service first- and second-line supervisors in management inquiry procedures and report preparation.¹¹ We have distributed over 7,000 copies of the Management Inquiry Handbook. This training has received outstanding reviews Service-wide for emphasis on investigative and management skills. Regarding the latter, the training emphasizes the importance of communicating expectations and addressing misbehavior before it escalates into more serious misconduct. We initiated a follow-on course for managers who have taken the original class, providing more detailed instruction in interviewing skills and in planning and reporting investigations.

In 2000, we presented management inquiry training to employees of the Del Rio Sector, El Centro, McAllen, Swanton, New Orleans, Buffalo, and Laredo Border Patrol Sectors; the San Antonio, Harlingen, Portland (Maine), New Orleans, Buffalo, Los Angeles, and Miami Districts; and the Texas and Nebraska Service Centers.

**Complaint
Process
Information**

In 2000, we continued to ensure that those with allegations of Service employee misconduct can report them and Service employees who deal with allegations do so properly. In addition to the management inquiry training described above, our efforts include the following.

*Employee
Education and
Outreach*

We have made efforts to educate Service employees on our role in resolving complaints and their responsibility to report possible misconduct. We have included information on the INS Intranet. During 2000, we conducted a complete review of OI 287.10. The OI will be published as Section 5.5.201 of the INS Administrative Manual in 2001.

*Complaint
Posters
and Forms*

We distributed 2,000 additional complaint posters to INS offices, bringing the total distributed to date to over 10,000.

11. In our 1999 Annual Report to the Commissioner, we reported that more than 1,000 supervisors had received our management inquiry training through 1999. That figure should have been 2,000.

The original INS complaint poster was intended for display in detention and holding areas rather than to the general public. Based on employee input, we worked with the Office of Field Operations to design a form by which users can submit not only complaints, but also compliments and suggestions. The form was submitted for publication approval during 2000. It will be issued in 2001 for posting in such public places as lobbies and primary inspection and information areas.

Information and Records

As custodian of the official records of cases concerning Service employees, we respond to requests for information made under the *Giglio* Policy and the Freedom of Information Act, and by parties to litigation, Congressional offices, special interest groups, and the Office of Security.

Giglio

In 1997, we were designated as the office responsible for INS compliance with the DOJ *Giglio* Policy, which requires DOJ investigative components to provide federal prosecutors with possible impeachment information regarding Government employee witnesses in criminal prosecutions. Since that time, we have amended OI 287.10 requirements to include either immediate or after the fact reporting of all classes of misconduct allegations. In addition, we now receive from regional labor and employee relations offices copies of disciplinary and adverse action notices to ensure full compliance with the policy.

In 2000, we responded to 559 *Giglio* requests on 2,258 INS employees.

FOIA Requests

In 2000, we processed 118 Freedom of Information Act (FOIA) requests for information on misconduct cases and on the misconduct reporting and resolution process.

Name Checks

We respond when management asks if candidates for higher-level positions or nominees for significant awards are subjects in open investigations, or in investigations in which misconduct was found to have occurred. Such reviews also are done as part of security background investigations and reinvestigations. We responded to 2,008 "name check" requests in 2000, a significant increase from the 947 requests we satisfied in 1999.

Additional Investigations Matters

Our internal investigations staff perform a variety of additional functions related to the conduct and management of investigations and the prevention of misconduct.

Firearms Issues

One of our Special Agents, who serves as our liaison to the INS Shooting Incident Review Committee (SIRC), coordinates and oversees inquiries into all shooting incidents nationwide and presents the results to the SIRC at its meetings. The SIRC reviews shooting incidents and decides whether or not to make observations or recommendations for possible individual corrective actions or changes in training or safety procedures. In 2000, 114 shooting incidents were reported to us, an increase over the 87 incidents reported in 1999. We presented 129 cases to the SIRC during

its meetings in 2000; 122 were pending completion of inquiry or investigation at year's end.

*Training
of OIG
Special
Agents*

Based on our experience in dealing with administrative investigations and the disciplinary action and appeal processes, we were invited to provide training for Office of the Inspector General Special Agents. We did so at two in-service training sessions.

*Duty Agent/
Monitoring
Significant
Incidents*

We continued to provide 24-hour per day, 7-day per week coverage to receive and respond to significant incidents reported through the INS Command Center. Our Special Agents rotate weekly through the duty agent assignment. Our duty agents handled 2,065 significant notifications in 2000.

*Office of
Security*

We continued to focus on our working relationship with the Office of Security, following the protocol we established by which the Office of Security reports to us misconduct issues uncovered through background investigations, and we advise them of issues germane to employee security clearances.

In 2000, we participated in six training sessions for Office of Security adjudicators. We explained our misconduct reporting and investigation processes, and that information disclosed in background investigations should be brought to the attention of INS management through our office. This is especially important given the nexus between federal law enforcement employees' duties and off-duty conduct. In 2000, there were 184 incidents involving Service employees' off-duty behavior. Examples were domestic issues, driving while intoxicated, and fighting. In 115 of those off-duty incidents, employees were arrested.

*Office of
Equal
Employment
Opportunity*

We entered into a series of discussions with the Office of Equal Employment Opportunity (EEO) to establish procedures for ensuring that potential misconduct issues raised in the EEO process are referred to us for consideration and possible concurrent investigation as allegations of employee misconduct.

**Internet and
Intranet**

In 2000, we continued our presence on the INS Internet web site under the functional heading "Quality and Integrity." This provides the public useful information on our office and its operations. Included are prior years' OIA Annual Reports and instructions on the employee misconduct complaint process, including answers to frequently asked questions about that process and the capability to download the franked, pre-addressed complaint form.

In 2000, we posted a number of items on the INS Intranet, including OI 287.10 and the Management Inquiry Handbook. The instruction and handbook provide employees information about the processing of allegations of employee misconduct. Also included on the INS Intranet are extensive materials related to the operations of our Internal Review Branch, including the INSpect review schedule, the INSpect guides, INSpect Alerts, a list of INSpect Corps members, a schedule of INSpect

and other review organizations' site visits, INSpect status reports, reports of special reviews and quality assurance reviews, and the "News You Can Use."

**Other
Notable
Activities**

- During 2000, we provided the Attorney General, through quarterly Management Initiatives Tracking (MIT) reports, updates on INSpect and improvements to the complaint process. The INSpect portion presented INSpect activities and performance, both for the quarter and year to date, and trend analyses, best practices, and corrective actions. The complaint process portion discussed such items as participation in community meetings, Ethical Decision-Making Seminars, and Management Inquiry Training.
- The Assistant Director, Internal Review, chaired a committee that developed a model for deployment of information technology. The OIG's review of the Rafael Resendez-Ramirez case had shown that the INS did not effectively deploy information technology to the field, that it did not provide sufficient training, and that staff did not always understand the contributions to the organization's effectiveness of the state-of-the-art technology they were using. The committee developed a model with four phases: development of standard operating procedures, operational training, sustainment training, and ongoing monitoring. By December 2000, standard operating procedures for the IDENT Automated Fingerprint Identification System had been prepared and operational training had begun in four locations.
- The Assistant Director, Internal Investigations, continued to serve as a member of the International Association of Chiefs of Police (IACP) National Committee on Civil Rights and the International Policy and Planning Committee.